

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Bilateral Agreement Between United States
Postal Service and Posten Norge AS (MC2011-34)
Negotiated Service Agreement

Docket No. CP2011-69

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING AN ADDITIONAL
NEGOTIATED SERVICE AGREEMENT FOR INCLUSION WITHIN
INBOUND COMPETITIVE MULTI-SERVICE AGREEMENTS
WITH FOREIGN POSTAL OPERATORS 1

(August 31, 2011)

The Public Representative hereby provides comments pursuant to Order No. 822.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's notice of its entry into an additional Inbound Competitive Multi-Service Agreement with a foreign postal operator.² The notice concerns a bilateral agreement with Posten Norge AS (Norway Post Agreement) to be included within the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product. Notice at 2.

The Norway Post Agreement establishes rates and classifications for the delivery of inbound Air Parcel Post (Air CP). *Id.*, at 3. The agreement is intended to become effective October 1, 2011, and remain in effect for one year, with an option to renew for an additional year. Notice at 2.

¹ PRC Order No. 822, Notice and Order Concerning Filing of An Additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1, Negotiated Service Agreement, August 24, 2011.

² Notice of the United States Postal Service of Filing Additional Functionally Equivalent Agreement, August 18, 2011 (herein "Notice").

Previously, in Order No. 546, the Commission approved the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product, and the addition of a functionally equivalent agreement, Koninklijke TNT Post BV and TNT Post PakketSERVICE Benelux BV (TNT Agreement), which serves as the baseline agreement.³ With respect to other competitive products, the Commission has determined that additional agreements may be included as part of a product if they meet the requirements of 39 U.S.C. § 3633 and if they are functionally equivalent to the previously submitted baseline agreement for the product.

COMMENTS

The Public Representative has reviewed Norway Post Agreement and the supporting financial model filed under seal that accompanied the Postal Service's notice. Based upon that review, the Public Representative concludes that the China Post 2011 Agreement is functionally equivalent to the baseline agreement. In addition to observing that the form of the agreement "is generated from a different template," the Postal Service also identifies several substantive differences from the baseline agreement. Notice at 3-4. These include the one year term of the Norway Post Agreement, the fact that the agreement concerns only inbound Air Parcel Post, and a difference in the method of resolving possible disputes. *Id.* at 4. The Postal Service asserts that these differences "do not affect either the cost or market characteristics of the postal services being offered or the fundamental nature of the agreements." *Id.* The Public Representative agrees. It should be noted that the Norway Post Agreement and the baseline agreement share, among others, an important similarity: both agreements waive the application of any EPG penalties during their respective contract terms for late delivery, missing delivery and late transmission.

³ PRC Order No. 546, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, Docket Nos. MC2010-34 and CP2010-95, September 29, 2010.

The Public Representative also concludes, based upon a review of the financial model, that the Norway Post Agreement appears likely to satisfy the requirements of 39 U.S.C. § 3633. The financial model indicates that the negotiated rate for inbound Air Parcel Post set forth in the Norway Post Agreement will generate a positive unit contribution and a reasonable cost coverage.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

James F. Callow
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6839
callowjf@prc.gov